

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Federal-State Joint Board on) CC Docket No. 96-45
Universal Service)
)
Western Wireless Corporation)
Petition for Designation as an)
Eligible Telecommunications Carrier)
In the State of Wyoming)

REPLY TO OPPOSITION

To: The Common Carrier Bureau

Chugwater Telephone Company ("Chugwater"), Range Telephone Cooperative, Inc. ("Range"), and RT Communications, Inc. ("RT"), (collectively the "Independents" or "Petitioners"), submit this Reply to the Western Wireless Opposition to Petition for Reconsideration and/or Clarification ("Opposition") filed February 27, 2001 in the above referenced proceeding.¹ The Independents are rural incumbent local exchange companies, operating within the state of Wyoming, that are impacted by the Commission's decision to grant Eligible Telecommunications (ETC) status to Western Wireless in Wyoming.

¹ The Opposition was filed February 27, 2001 and the accompanying certificate of service shows that it was served by mail on counsel for Chugwater, Range and RT on the same day. Counsel did not receive the service copy until March 9, 2001, although he became aware that the Opposition had been filed early in the week of March 5th. Accordingly, only an abbreviated reply is being filed at this time, however Petitioners maintain the positions stated in their Petition..

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**I THE WYOMING PSC NOW HAS JURISDICTION TO GRANT ETC
STATUS TO WIRELESS CARRIERS**

Western Wireless' Opposition objected to consideration of the then pending legislation in Wyoming as a basis for reconsideration of its designation as an ETC.² That legislation has now been adopted by the legislature and was signed by the Governor on March 3, 2001.³ HB0052 effectively allows the Wyoming Public Service Commission to designate wireless providers as (ETCs) in the state. A copy of the Bill is attached. Petitioners will promptly evaluate the implications of this legislation and advise the Commission by *ex parte* comments as to the most appropriate procedure for returning jurisdiction to the Wyoming PSC. The Commission should also solicit the opinion of the PSC, consistently with procedures established in the *Twelfth Report and Order*.⁴

**II EACH OF THE PETITIONERS REQUESTED AND RECEIVED ETC
STATUS FROM ALL STATES IN WHICH THEY PROVIDED SERVICE
AT THE TIME ETC WAS REQUIRED.**

Western Wireless asserts incorrectly that Petitioners seek to apply a different rule to it than was applied to Petitioners when received ETC status in 1997 because none of the states involved invoked the disaggregation process.⁵ Instead of disaggregation, Petitioners sought and obtained ETC designation in each of the states in which they

² Opposition at 10-11.

³ <http://legisweb.state.wy.us/2001/introduced/hb0052.htm>

⁴ Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, *Twelfth Report and Order*, 15 FCC Rcd 12208, 12255-12277 (2000).

⁵ Opposition at 16.

operate. Petitioners readily acknowledge that Western Wireless could follow the same process, as an alternative to disaggregation. That is, it could apply in each state for designation as an ETC in the study areas of the Petitioners, with each grant being contingent upon grant by the other states in which the study area is located.

Although this procedure is not explicitly provided for in the Act, it was widely followed in 1997, is not inconsistent with the Act as is the Bureau's order, and is a logical and practical solution to the issue which promotes cooperation among states.

III CONCLUSION

In addition to the reasons for reconsideration set forth in the Independents' Petition for Reconsideration, the recent change in the Wyoming law necessarily means that the Commission should reevaluate its decision in this matter, after hearing further comment from all parties, including the Wyoming Public Service Commission.

Respectfully submitted

Chugwater Telephone Company
Range Telephone Cooperative
RT Communications, Inc.

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Attachment

HB0052 - Wireless telecommunications-universal service fund.

2001

*STATE
OF
WYOMING*

01LSO-0070

HOUSE BILL NO. HB0052

Wireless telecommunications-universal service fund.

Sponsored by: Joint Corporations, Elections and Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to telecommunications; providing for
2 wireless telecommunications services to be eligible for
3 state universal service fund distributions as specified;
4 and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 37-15-502 is created to read:

9

10 **37-15-502. Universal service fund eligibility and**
11 **distribution to carriers using wireless technology.**

12

13 (a) Telecommunications companies which use cellular,
14 radio spectrum or other wireless technology to provide
15 supported services to customers who are otherwise eligible
16 to receive universal service support pursuant to W.S.

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1 37-15-501, may establish eligibility to receive universal
2 service fund distributions in an amount to be determined by
3 the commission, provided that:

4

5 (i) The telecommunications company will offer
6 and advertise all supported services throughout the entire
7 local exchange area;

8

9 (ii) The telecommunications company will provide
10 unlimited local calling throughout an entire local exchange
11 area for a flat fee;

12

13 (iii) The telecommunications company's bill to
14 the customer reflects a credit for the amount of
15 distribution the company receives from the state universal

16 service fund for providing supported services to that
17 customer; and
18
19 (iv) The company and services meet such
20 additional criteria, if any, the commission determines are
21 necessary to further the stated intent of W.S. 37-15-102.
22 During its consideration and determination, the commission
23 shall consider technological and competitive neutrality.

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1 The commission shall adopt rules setting forth any such
2 criteria on or before December 31, 2001.
3

4 **Section 2.** W.S. 37-15-103(a) by creating a new
5 paragraph (xvi) and 37-15-104(a) (vi) are amended to read:
6

7 **37-15-103. Definitions.**
8

9 (a) As used in this chapter:
10

11 (xvi) "Supported services" means the services or
12 functionalities which shall be supported by the state
13 universal service fund pursuant to W.S. 37-15-502, as
14 described in subparagraphs (A) and (B) of this paragraph:
15

16 (A) The services designated for support
17 are:
18

19 (I) Voice grade access to the public
20 switched network. "Voice grade access" is defined as a
21 functionality that enables a user of telecommunications
22 services to transmit voice communications, including
23 signaling the network that the caller wishes to place a
24 call, and to receive voice communications, including

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1 receiving a signal indicating there is an incoming call.
2 For the purposes of this subparagraph, bandwidth for voice
3 grade access shall be, at a minimum, three hundred (300) to
4 three thousand (3,000) Hertz;
5

6 (II) Local usage. "Local usage" means
7 an amount of minutes of use of exchange service, prescribed
8 by the commission, provided free of charge to end users;
9

10 (III) Dual tone multi-frequency
11 signaling or its functional equivalent. "Dual tone multi-
12 frequency" is a method of signaling that facilitates the
13 transportation of signaling through the network, shortening
14 call set-up time;
15

16 (IV) Single-party service or its
17 functional equivalent. "Single-party service" is
18 telecommunications service that permits users to have

19 exclusive use of a wireline subscriber loop or access line
20 for each call placed, or, in the case of wireless
21 telecommunications carriers, which use spectrum shared
22 among users to provide service, a dedicated message path
23 for the length of a user's particular transmission;
24

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1 (V) Access to emergency services.
2 "Access to emergency services" includes access to services,
3 such as 911 and enhanced 911, provided by local governments
4 or other public safety organizations. 911 is defined as a
5 service that permits a telecommunications user, by dialing
6 the three-digit code "911," to call emergency services
7 through a public service access point operated by the local
8 government. "Enhanced 911" is defined as 911 service that
9 includes the ability to provide automatic numbering
10 information, which enables the public service access point
11 to call back if the call is disconnected, and automatic
12 location information, which permits emergency service
13 providers to identify the geographic location of the
14 calling party. "Access to emergency services" includes
15 access to 911 and enhanced 911 services in accordance with
16 applicable governing authority;
17

18 (VI) Access to operator services.
19 "Access to operator services" is defined as access to any
20 automatic or live assistance to a consumer to arrange for
21 billing or completion, or both, of a telephone call;
22

23 (VII) Access to interexchange service.
24 "Access to interexchange service" is defined as the use of

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1 the loop, as well as that portion of the switch that is
2 paid for by the end user, or the functional equivalent of
3 these network elements in the case of a wireless carrier,
4 necessary to access an interexchange carrier's network;
5

6 (VIII) Access to directory assistance.
7 "Access to directory assistance" is defined as access to a
8 service that includes, but is not limited to, making
9 available to customers, upon request, information contained
10 in directory listings; and
11

12 (IX) Toll limitation for qualifying
13 low-income consumers.
14

15 (B) The commission may grant a company
16 additional time to complete the network upgrades needed to
17 provide single-party service, access to enhanced 911
18 service, or toll limitation. If such petition is granted,
19 the otherwise eligible company will be permitted to receive
20 universal service support for the duration of the period

21 designated by the commission. The commission shall grant
22 such a request only upon a finding that exceptional
23 circumstances prevent an otherwise eligible company from
24 providing single-party service, access to enhanced 911

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1 service or toll limitation. The period should extend only
2 as long as the commission finds that exceptional
3 circumstances exist and shall not extend beyond the time
4 that the commission deems necessary for that company to
5 complete network upgrades. An otherwise eligible company
6 that is incapable of offering one (1) or more of these
7 three (3) specific supported services must demonstrate to
8 the commission that exceptional circumstances exist with
9 respect to each service for which the carrier desires a
10 grant of additional time to complete network upgrades.

11

12 **37-15-104. Services not regulated by this title.**

13

14 (a) Except for contributions to the universal service
15 fund required pursuant to W.S. 37-15-501 and the assessment
16 levied pursuant to W.S. 37-2-106 through 37-2-109,
17 telecommunications service does not include, and the
18 provisions of this title do not apply to:

19

20 (vi) ~~Except for the quality of cellular service~~
21 ~~to the extent not preempted by federal law,~~
22 Telecommunications services using radio spectrum, or
23 cellular, or other wireless technology, except as set forth
24 in subparagraphs (A), (B) and (C) of this paragraph:

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1

2 (A) The quality of cellular service to the
3 extent not preempted by federal law;

4

5 (B) To the extent permitted in accordance
6 with the requirements set forth in federal law,
7 consideration and determination of an application for
8 designation as a federal eligible telecommunications
9 carrier;

10

11 (C) Determinations of eligibility for and
12 amount of distribution of state universal service funds by
13 the commission for supported services in accordance with
14 W.S. 37-15-502.

15

16 **Section 3.** This act is effective immediately upon
17 completion of all acts necessary to become law as provided
18 by Article 4 Section 8 of the Wyoming Constitution.

19

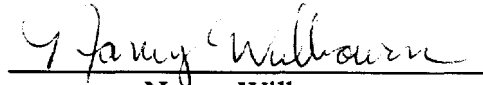
20

(END)

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CERTIFICATE OF SERVICE

I, Nancy Wilbourn, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Reply to Opposition" was served on this 9th day of March, 2001 by first class, U.S. mail, postage prepaid or by hand delivery to the following parties:


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